

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RASHEED WALTERS, RITA DIXON, SHIRLEY SHILLINGFORD, MAUREEN FEENEY, PHYLLIS CORBITT, Individually and as President of the Massachusetts Union of Public Housing Tenants, THE SOUTH BOSTON CITIZENS ASSOCIATION, MARTIN F. MCDONOUGH AMERICAN LEGION POST, ST. VINCENT'S LOWER END NEIGHBORHOOD ASSOCIATION, and OLD COLONY TENANT ASSOCIATION, GLADYS BRUNO, ZHENG HUANHUA, CARMEN LUISA GARCIA TERRERO, CARMEN GARCIA-ROSARIO, and ELEANOR KASPER,

Plaintiffs,

v.

THE CITY OF BOSTON, MICHELLE WU, in her official capacity of the Mayor of the City of Boston, ENEIDA TAVARES, in her official capacity as Commissioner of the Boston Election Commission, and THE BOSTON CITY COUNCIL,

Defendants.

Civil Action No. 1:22cv012048-PBS

PLAINTIFFS' STATUS REPORT

Now Come the Plaintiffs and respectfully submit this Status Report to update this Honorable Court regarding a new redistricting map approved by the Boston City Council on May 24, 2023. The map was later signed into law by the Mayor on May 26, 2023. The Parties have attempted to reach a joint status report but were unable to do so.

Plaintiffs are largely pleased with the new redistricting map (the "May 26, 2023, Enacted Map") as it is significantly more in compliance with constitutional requirements. However, Plaintiffs

request that this Honorable Court review the new May 26, 2023, Enacted Map for constitutional sufficiency.

The Boston City Council met several times following this Honorable Court's May 8, 2023, Memorandum and Order enjoining the previous redistricting map. On information and belief, at the end of the assigned Redistricting Committee's final working session on May 23, 2023, Committee Chair Ruthzee Louijeune and a majority of the City Councilors (7 of 12) had reached consensus on a map (the "Consensus Map") that would be voted on by the full City Council on the following day. However, two significant last-minute changes were made to the Consensus Map at some point between the close of the Committee's final working session and the start of the following day's City Council meeting. The following two precincts were surreptitiously swapped:

1. Ward 14 Precinct 14 (2,186) was shifted from District 4 into District 5; and
2. Ward 15 Precinct 1 (2,737) was shifted from District 3 to District 4.

These changes to Districts 3 and 4 are directly relevant to this case, and they may support a finding of racial predominance regarding the drawing of the final border lines of Districts 3 and 4. Ward 14 Precinct 14 is a large chunk of Mattapan center along Blue Hill Avenue. Upon information and belief, District 5 Councilor Ricardo Arroyo lobbied for Ward 14 Precinct 14 to be moved from District 4 to District 5 in order to balance the racial demographics of District 5. Upon information and belief, Councilors Elizabeth Breadon, Julia Mejia, Kendra Lara, and Tania Fernandes-Anderson all lobbied for Ward 14 Precinct 14 to be moved to District 5 for racial reasons.

In order to make the population balance numbers work, the City Council then had to move Ward 15 Precinct 1 from District 3 into District 4. Ward 15 Precinct 1 is a part of the tight knit Cape Verdean community that was previously all unified in District 3. Now a large swath of the Cape Verdean community has been excised from their neighborhood and shifted into District 4. There was

no reason to move Ward 15 Precinct 1 from District 3 to District 4 and Ward 14 Precinct 14 into District 5 except to achieve racial targets or demographic goals.

Plaintiffs are concerned that the City Council ignored the warnings of this Honorable Court and have once again “subordinated traditional race-neutral districting principles,” such as compactness, contiguity, and respect for communities of interest, to racial considerations. As this Honorable Court held in the May 8, 2023, Order, racial considerations that are not narrowly tailored to compelling government interests not pass constitutional muster.

Councilors Mejia and Lara even bragged about their efforts to move Ward 14 Precinct 14 to District 5, stating in a joint press release as follows:

We fought hard and were able to preserve 14-14 within District 5. This is a win for Mattapan, as a community of interest and preserves it as an opportunity district. Although we still have a ways to go to enfranchise communities of interest all across the city, we believe that our dissenting votes send a clear message that there are still people on the Boston City Council that are willing to stand up to power.

Exhibit A. Similarly, it was reported that Councilor Arroyo criticized the Consensus Map and specifically objected to the placement of Ward 14 Precinct 14 in District 4:

The map also keeps a specific Mattapan precinct in Councilor Ricardo Arroyo's District 5. Arroyo had criticized Louijeune's map in the days leading up to the vote, for proposing to move parts of Mattapan out of his district, which he argued diluted the neighborhood's voting power.

Exhibit B. Additionally, Councilor Arroyo stated at the City Council hearing on May 23, 2023 that he believed that putting Ward 14 Precinct 14 into District 4 would “accentuate[] racially polarized voting” in District 5, which he baselessly claimed would be a Voting Rights Act violation. See City Council Hearing, May 23, 2023, available at https://www.youtube.com/watch?v=7His6z_lxWA at 5:23:37. Councilor Arroyo also noted that he feared lawsuits from the NAACP or Lawyers for Civil Rights if 14-14 was to go to District 4: “I think we are aware that these maps can be sued and frankly anything that has a potential VRA issue we have already been sort of told will likely be sued and so I’m just saying this is a fixable issue that we can fix and I don't think we're that far apart from fixing it but I do

think it's something that can be fixed and I would rather we fix it than go into a rushed vote with no voting racial voting analysis[.]” Id. at 5:23:44.

It appears that at least some of the City Councilors did not heed the advice of this Honorable Court that “when a line-drawing body” invokes the VRA to justify race-based districting, it must show (to meet the ‘narrow tailoring’ requirement) that it had a ‘strong basis in evidence’ for concluding that the [May 26, 2023, Enacted Map] required its action.” (Citations omitted.) ECF No. 78, p.33. However, the good news is that the solution to this matter is far simpler than invalidating the May 26, 2023, Enacted Map (which otherwise appears to be constitutionally compliant). *See Exhibit C – New Map.* Instead, the Plaintiffs respectfully request that this Honorable Court review the last-minute move of Ward 14 Precinct 14 and Ward 15 Precinct 1 and hold an evidentiary hearing if the Court deems it necessary. If this Honorable Court finds that racial considerations predominated over the decision to move these precincts, then Plaintiff respectfully requests that the Court order Ward 14 Precinct 14 to remain in District 4 and Ward 15 Precinct 1 to remain in District 3 in accordance with the Consensus Map.

It is the Plaintiff’s understanding that moving these two precincts will have no significant impact on the administration of elections later this year.

Respectfully Submitted,
Plaintiffs,
By their Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed through the ECF System and will be served upon the attorney of record for each party registered to receive electronic service on this the 2nd day of June 2023.

/s/ Glen Hannington